

MEMORANDUM

Agenda Item No. 7(B)

(Second Reading 12-6-05)

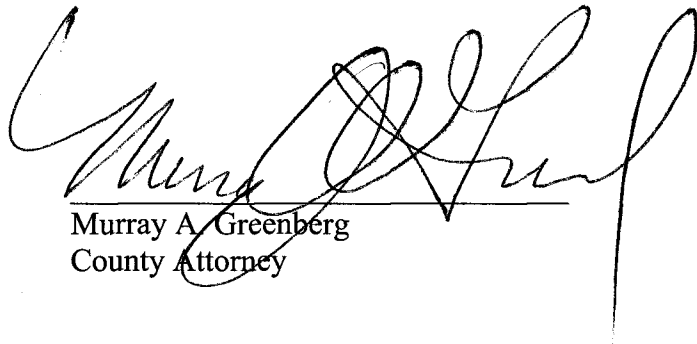
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: May 17, 2005

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance relating to
Election Campaign
Financing

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Sally A. Heyman.



Murray A. Greenberg
County Attorney

MAG/bw

Memorandum



DATE: December 6, 2005


TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

FROM: George M. Burgess
County Manager

SUBJECT: Ordinance relating to Election Campaign Financing; repealing Section 2-11.1.3 of the Code of Miami-Dade County

This ordinance relating to Election Campaign Financing repealing Section 2-11.1.3 of the Code of Miami-Dade County relating to limitation on contributions and expenditures by national or state banks, corporations or unincorporated associations will have no additional fiscal impact on Miami-Dade County.

The ordinance eliminates all limitations relating to contribution amounts and type of contributors. It incorporates campaign laws established under the State of Florida, applying them to all elections for the Office of Mayor of Miami-Dade County, Miami-Dade County Board of County Commissioners, and Miami-Dade County Community Councils.


Susanne M. Forriente
Assistant County Manager

fiscal05705



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: December 6, 2005

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 7(B)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 7(B)
12-6-05

ORDINANCE NO. _____

ORDINANCE RELATING TO ELECTION CAMPAIGN FINANCING; REPEALING SECTION 2-11.1.3 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO LIMITATION ON CONTRIBUTIONS AND EXPENDITURES AND SECTION 12-5 PROHIBITING CONTRIBUTIONS OR EXPENDITURES BY NATIONAL OR STATE BANKS, CORPORATIONS OR UNINCORPORATED ASSOCIATIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on December 15, 1998, the Board of County Commissioners adopted Ordinance No. 98-183 which prohibits, with certain exceptions, campaign contributions by corporations, national or state banks and unincorporated associations to candidates for the Office of Mayor, Board of County Commissioners and Community Councils; and

WHEREAS, on April 11, 2000, the Board adopted Ordinance No. 00-52 which limits campaign contributions to persons campaigning for the Office of Mayor, Board of County Commissioners and Community Councils to \$250.00; and

WHEREAS, Florida law limits individual campaign contributions to each candidate to \$500.00 per person; and

WHEREAS, Florida law currently allows corporations, banks and unincorporated associations to make contributions up to \$500.00 to each candidate; and

WHEREAS, the Commission finds that Ordinance No. 98-183 and Ordinance No. 00-52, although well intentioned, have neither increased transparency in the electoral process nor served the public interest; and

WHEREAS, the Commission further finds that Florida's campaign finance laws should be applicable to candidates seeking County office; and

WHEREAS, the Commission believes that requiring candidates for the Office of Mayor, Board of County Commissioners and Community Councils to follow the requirements of Florida law will serve the public interest by streamlining an overly complicated system of campaign financing, reducing transactional costs incurred by candidates and promoting transparency,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-11.1.3 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-11.1.3. ~~[[Campaign contributions and expenditures.]]~~ >>Reserved.<<

~~[[(a) *Definitions.* The following terms, as used in this section, shall mean:~~

~~(1) "Contribution" shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented.~~

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (2) ~~"Expenditure" shall have the meaning ascribed to such term in Chapter 106, Florida Statutes, as amended and supplemented.~~
- (b) ~~*Limitation on Contributions and Expenditures.* It is unlawful for any person or political committee, as provided in section 12-5, to make a Contribution or Expenditure in excess of two hundred and fifty dollars (\$250.00), either directly, indirectly or through a political committee, to any candidate for election to the Office of Mayor of Miami-Dade County, Miami Dade County Board of County Commissioners, Miami Dade County Community Council or the Miami Dade County Fire Board. Furthermore, it shall be unlawful for any candidate, political committee, or other person to knowingly accept or receive any campaign Contribution or Expenditure prohibited by this section. The Contribution and Expenditure limits of this section apply to each election. For the purposes of this section, the first primary, second primary and general election are separate elections so long as the candidate is not an unopposed candidate as defined in section 106.011(15), Florida Statutes.~~
- (e) ~~*Penalties.* In addition to any other penalties that may be applicable, any individual who violates this section shall be subject to a fine up to five thousand dollars (\$5,000) or imprisonment not to exceed three hundred and sixty four (364) days, or both.]]~~

Section 2. Section 12-5 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

~~[[Sec. 12-5. Contributions or expenditures by national or state banks, corporations or unincorporated associations.~~

- (1) ~~It is unlawful for any national or state bank, or any corporation incorporated under the laws of the State of Florida or any other state or any foreign country or any unincorporated association to make a contribution or expenditure, as defined in Chapter 106, Florida Statutes, in connection with the election of any candidate in Miami-Dade County. Furthermore, it shall be unlawful for any candidate, political committee, or other person to~~

~~knowingly accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation, bank, or any unincorporated association to consent to any contributions or expenditures by a corporation, bank or unincorporated association prohibited by this section. As used herein:~~

- (a) ~~"Candidate" means a candidate for the office of Mayor of Miami-Dade County, the Miami-Dade County Board of County Commissioners, Miami-Dade County Community Councils and the Miami-Dade County Fire and Rescue Services District Board; and~~
 - (b) ~~"Unincorporated association" means a partnership or any other legal entity other than a natural person or corporation.~~
- (2) ~~No provision of this section shall be deemed to prohibit a loan of money by a national or state bank made in accordance with the applicable banking laws and regulations in the ordinary course of business; however, any such loan shall be included in the reports filed by the candidates and political committees. No provision of this section shall be deemed to prohibit the receipt of interest or dividends on investments where the interest or dividends are received in accordance with the applicable banking laws and in the ordinary course of business. Any such interest and dividends shall be included in the financial records maintained by the candidate and political committees and reports where appropriate under the filing requirements of this action.~~
- (3) ~~No provision of this section shall be deemed to prohibit direct private communications by a corporation to its stockholders and their families or by an unincorporated association to its members and their families on any subject; nonpartisan registration and get-out-vote campaigns by a corporation aimed at stockholders and their families or by an unincorporated association aimed at its members and their families; and the establishment, and administration by a corporation or an unincorporated association of a separate segregated fund which fund is to be created by voluntary individual contributions, including those solicited by the corporation or unincorporated~~

~~association and to be utilized for political purposes; provided that any such separate segregated fund shall be deemed to be a political committee for purposes of this section and must comply with the requirements of Chapter 106, Florida Statutes, regardless of the level of expenditures or contributions.~~

- (4) ~~Penalties. In addition to any other penalties which may be applicable, any person who violates this section shall be punishable by a fine up to five thousand dollars (\$5,000.00) or imprisonment not to exceed three hundred and sixty-four (364) days, or both.]]~~

>>**Sec. 12-5. Campaign contributions and expenditures.**

Except as otherwise provided by the Home Rule Charter or by ordinance adopted by the Commission, the provisions of the election laws of the State of Florida regarding campaign contributions and expenditures shall apply to elections for the Office of Mayor of Miami-Dade County, Miami-Dade County Board of County Commissioners and Miami-Dade County Community Councils.<<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

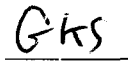
Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Gerald K. Sanchez

Sponsored by Commissioner Sally A. Heyman